

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2021-89-E
DOCKET NO. 2021-90-E

In the Matter of:)	DUKE ENERGY CAROLINAS,
)	LLC'S AND DUKE ENERGY
Duke Energy Carolinas, LLC's and Duke)	PROGRESS, LLC'S FIRST SET
Energy Progress LLC's 2021 Avoided Cost)	OF REQUESTS FOR
Proceeding Pursuant to S.C. Code Ann.)	PRODUCTION OF DOCUMENTS
Section 58-41-20(A))	AND INTERROGATORIES TO
)	PELZER HYDRO COMPANY,
)	LLC AND AQUENERGY
)	SYSTEMS, LLC

Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (together, “Duke Energy” or the “Companies”), by and through their legal counsel, pursuant to Rule 103-833(C) of the Rules of Practice and Procedure of the Public Service Commission of South Carolina (“Commission”), hereby serve Pelzer Hydro Company, LLC (“Pelzer”) and Aquenergy Systems, LLC (“Aquenergy” and, together with Pelzer, the “Hydro Intervenors”) with the following First Set of Requests for Production and Interrogatories to be answered under oath on or before twenty (20) days from the date of service.

Further, please take notice that these Requests for Production and Interrogatories are continuing in nature until the date of the hearing, and that any information or responsive materials identified after your responses have been served upon the undersigned counsel should be provided via supplemental discovery responses as soon as possible after such identification.

INSTRUCTIONS

1. Please produce the requested documents as they are kept in the usual course of business or to organize and label them to correspond with the categories in the Request. Documents attached to each other should not be separated.

2. In producing Documents, furnish all documents known or available to you, regardless of whether such documents are possessed directly by you or your agents, employees, representatives, investigators, or by your attorneys. All requests for Documents specifically request documents of Pelzer, Aquenergy, and/or Documents developed by or in the possession of Mr. Matthew Stanley.

3. If any document otherwise responsive to any Request was, but is no longer, in your possession, subject to your control or in existence, identify each document by listing its author(s) and addressee(s), date, subject matter, whether the document(s) or copies are still in existence (and if so, their locations and the custodians), as well as whether the document is missing or lost, has been destroyed, has been transferred voluntarily to others, or has been otherwise disposed of. In each instance, explain the circumstances surrounding such disposition and identify the person(s) directing or authorizing its destruction or transfer, and the date(s) of such direction or authorization.

4. If a privilege or objection as to any Request is claimed, identify with specificity the matter as to which the privilege or objection is claimed, the nature of the privilege or objection, and the legal and factual basis for each such claim, and provide a complete description of the information or document being withheld.

5. Unless otherwise stated, the relevant time period for these Requests is from June 1, 2020, until the present.

6. Physically or electronically segregate Documents produced in response to a particular Request from Documents produced in response to any other particular Request, and identify the Request to which they are responsive. If a Document is responsive to more than one particular Request, specify each Request to which such Document is responsive.

7. In producing Documents pursuant to a Request, please mark the documents with the specific data request number pursuant to which the Documents are being produced and mark each page of each Document produced with a Bates number.

8. All Documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable should be produced in text searchable Portable Document Format (".pdf") format. Spreadsheets should be provided in their native form.

9. These Requests are continuing in nature, such that you must provide a supplemental response if and when you discover, obtain, or recollect other or further information responsive to any Request. In addition, you must amend the answer to any Request if and when you discover or ascertain that the answer was incorrect.

10. Please provide responses to the following data requests electronically. To the extent this is impracticable, the responses, including any responsive Documents, should be provided at the offices of Robinson, Gray, Stepp & Laffitte, LLC, 1310 Gadsden Street, Columbia, South Carolina 29201, or some mutually convenient location otherwise agreed to by the parties.

DEFINITIONS

1. **“Commission”** means the Public Service Commission of South Carolina.
2. **“Communication”** means the transmittal of information in the form of facts, ideas, Documents, inquiries, or otherwise, including every discussion, conversation, conference, or telephone call.
3. **“DEP”** means Duke Energy Progress, LLC.
4. **“DEC”** means Duke Energy Carolinas, LLC.
5. **“Docket”** means Commission Docket Nos. 2021-89-E & 2021-90-E.
6. The term **“document”** is to be construed as broadly as permissible under Rule 34 of the South Carolina Rules of Civil Procedure and includes, but is not limited to, any printed, typewritten, handwritten or otherwise recorded information of whatever character, including, but not limited to, letters, memoranda, notes, diaries, reports, records, calendars, charts, audio and/or video tapes or discs, and photographs; computer programs or disks; electronic media records, however recorded and maintained, including, but not limited to, electronic mail, voicemail messages, digital photographs and electronically scanned records of any type; recorded observations, statements, conversations or formal affidavits. Any carbon or photocopy of any such materials upon which notations have been made and all drafts are also included.
7. **“You”** and **“your”** means Pelzer and Aquenergy, including but not limited to, their witness, Mr. Stanley, and all of their members, agents, representatives and attorneys.
8. **“Person”** means any natural person or any business, legal, or governmental entity or association.

9. The terms “**related to**” and “**relating to**” or any variation thereof shall be construed to include refer to, summarize, reflect, constitute, contain, embody, mention, show, comprise, evidence, discuss, describe, comment on, concerning, regarding, eluding to, pertaining to, probative of, in connection with, dealing with, in respect of, about, involved, identifying or proving.

10. “**Identify**” when referring to a Person, means to give, to the extent known, the Person’s full name, present or last known address, and when referring to a natural Person, additionally, the present or last known place of employment.

11. “**Identify**” when referring to Documents, means to give, to the extent known, the (i) type of Document; (ii) general subject matter; (iii) date of the Document; and (iv) authors, addressees and recipients.

12. “**Identify**” when referring to an oral Communication, means to give, to the extent known, the identity of the speaker and of each Person who was present when the Communication was spoken, and the substance, date, and place of such Communication.

13. “**FERC**” means the Federal Energy Regulatory Commission.

14. “**PURPA**” means Section 210 of the Public Utility Regulatory Policies Act of 1978 and FERC’s implementing regulations, 18 C.F.R. Section 292.

15. “**QF**” means a cogenerator or small power producer qualifying facility under PURPA.

INTERROGATORIES

1-1. Please identify all state regulatory proceedings (State, Docket, Date of Testimony) and civil litigation (State, Docket, Date of Testimony) in which Mr. Stanley has testified in the last five (5) years. For each proceeding or case identified, please provide a brief summary of the testimony identifying whether PURPA implementation, utility avoided costs, or the commercial reasonableness of power purchase contracts was at issue in the proceeding and, if so, how Mr. Stanley's testimony addressed the issue.

ANSWER:

1-2. With respect to Mr. Stanley's statements at page 5, lines 3-9 of his testimony that DEC's proposed avoided cost rates are "harmful and inadequate" to the Pelzer and Aquenergy hydro QFs and that these entities are "currently [not] able to operate at a break-even point or profitably[,]" please state whether the profitability of the Pelzer and Aquenergy hydro QFs is a relevant consideration in calculating DEC's PURPA-compliant avoided cost rates under:

- a. FERC's regulations implementing PURPA, 18 C.F.R. 292,304; and/or
- b. The South Carolina Energy Freedom Act ("Act 62"), S.C. Code Ann. § 58-41-20.

ANSWER:

1-3. Please explain in detail the basis for Mr. Stanley's statement at page 4, lines 9-10 of his testimony that "[s]mall hydropower is an invaluable capacity resource that serves a critical role in firming and supporting renewables in the clean energy transition,"

and explain specifically how the distribution-connected Pelzer and Aquenergy hydro QFs enable DEC to avoid system incremental costs of generating capacity and energy itself or purchasing capacity and energy from another source.

ANSWER:

1-4. Please explain in detail the basis for Mr. Stanley's statement at page 5, lines 12-13 of his testimony that "[p]reviously, DEC applied an increased power adjustment factor of 2.0 in their avoided cost calculations for hydroelectric QFs" including:

- a. Identifying any representative of DEC that informed Mr. Stanley that DEC previously offered a 2.0 performance adjustment factor to hydroelectric QFs in South Carolina, including the date of such statement and a description of the context in which it was made; and
- b. Identifying any existing or pre-existing power purchase contract where you believe DEC included a 2.0 performance adjustment factor to the Pelzer or Aquenergy hydro QFs.

ANSWER:

1-5. With respect to Mr. Stanley's statement at page 6, lines 5-6 of his testimony that "[i]t is important that the full range of avoided costs . . . be properly reflected in the calculation of the avoided cost" and at page 7, lines 1-14 of his testimony that "there environmental benefits of hydro facilities that should be included in the calculation of avoided cost," please explain in detail:

- a. Whether there are any specific costs that you have identified that are avoidable by DEC that are not already appropriately considered in calculating DEC's avoided costs, including, but not limited to, purported costs related to "the environment, system reliability and reduced losses, and fuel related cost savings" (*see* p. 8:12-13);
- b. Whether Mr. Stanley, Pelzer, and Aquenergy agree that, under PURPA, utilities are not obligated to pay QFs for costs that are not actually avoidable by the utility and its customers; and
- c. Whether Mr. Stanley, Pelzer, and Aquenergy agree that DEC is not subject to laws or regulations today that impose costs related to carbon emissions, and, therefore, no carbon emission-related costs are avoided by the utility for purposes of calculating avoided cost rates under PURPA today.
- d. Whether Mr. Stanley, Pelzer, and/or Aquenergy agree that, under PURPA, utilities are not obligated to pay QFs for non-energy costs such as environmental benefits, waste reduction benefits, and economic development.

ANSWER:

1-6. Please explain in detail the basis for Mr. Stanley's statement beginning at page 10, line 22 of his testimony that the "unpredictable daily pricing schedule from DEC has also affected future revenue uncertainty, adversely impacting the present value of the hydroelectric facilities and the ability to plan for future operations."

- a. Please state whether Mr. Stanley, Pelzer, and Aquenergy agree that the avoided cost rates and pricing schedule under Schedule PP are fixed for 2-, 5-, or 10-year term of the purchased power contract, at the option of the QF.

ANSWER:

REQUESTS FOR PRODUCTION

1-1. Please produce copies of all data requests, requests for production, interrogatories, or other communications that have been received by Pelzer and/or Aquenergy in connection with this Docket. Please produce these as soon as practicable after they are received. Please consider this an ongoing request.

RESPONSE:

1-2. Please produce copies of Pelzer's and/or Aquenergy's responses to all data requests, requests for production, interrogatories, or any other information provided by Pelzer or Aquenergy in connection with this Docket. This includes all documents, electronic files or other attachments that were that were provided, or made available for on-site inspection. Please produce these at the same time they are provided to the requesting party, or if that is impossible, as soon as practicable thereafter.

RESPONSE:

1-3. Please produce copies of all data requests, requests for production, interrogatories, or any other request for information that Pelzer and/or Aquenergy has served on other parties in connection with this Docket. Please produce these at the same time they are served on the other party. Please consider this an ongoing request.

RESPONSE:

1-4. Please produce copies of the responses to all data requests, requests for production, interrogatories, or any other request for information that Pelzer and/or

Aquenergy has served on other parties in connection with this docket. Please produce these as soon as practicable after they are received. Please consider this an ongoing request.

RESPONSE:

1-5. Please produce any and all documents identified, referred to, or relied upon in preparing your response to Duke Energy's First Set of Interrogatories to Pelzer and Aquenergy.

RESPONSE:

1-6. Please provide all supporting analyses, data, and workpapers that support Mr. Stanley's statement at page 11 of his testimony that "Currently Pelzer's and Aquenergy's South Carolina facilities are operating at an approximately 50% loss."

RESPONSE:

1-7. Please provide the annual operating budget and profit and loss statement (or projections, as applicable) for years 2019, 2020, and 2021 for operating each of Pelzer's and Aquenergy's South Carolina QF hydro facilities at issue in this proceeding.

RESPONSE:

1-8. With respect to Mr. Stanley's testimony on page 11 that "[t]he bottom-line concern here is the viability of small hydro in this state" and that "[c]urrently Pelzer's and Aquenergy's South Carolina facilities are operating at an approximately 50% loss" such that there is the possibility of "operational, renewable assets being scrapped and lost in the

state[,]” please provide any Documents or analyses that relate to your evaluation of whether to shut down the facilities.

RESPONSE:

1-9. Please provide all documents Mr. Stanley relied upon to support his statement at page 5, line 12-13 of his testimony that “[p]reviously, DEC applied an increased power adjustment factor of 2.0 in their avoided cost calculations for hydroelectric QFs” as well as all documents relied upon to develop his response to Interrogatory No. 1-5.

RESPONSE:

Dated this 25th day of June 2021.

/s/Rebecca Dulin
 Rebecca J. Dulin
 Associate General Counsel
 Duke Energy Carolinas, LLC
 Duke Energy Progress, LLC
 1201 Main Street, Suite 1180
 Capital Center Building
 Columbia, South Carolina 29201
 Phone: (903) 988-7130
 Email: rebecca.dulin@duke-energy.com

and

Frank Ellerbe
 Robinson, Gray, Stepp & Laffitte, LLC
 1310 Gadsden Street
 Columbia, South Carolina 29201
 Phone: (803) 227-1112
 Email: fellerbe@robinsongray.com

*Attorneys for Duke Energy Carolinas, LLC
 and Duke Energy Progress, LLC*